

Juvenile Rules Restyled 2022

Overview of Part I

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Rules of Procedure for the Juvenile
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Overview and Handouts

- Background and History
- Overview of Part I of the restyled juvenile rules
- Handout: Power Point Presentation



Background and History



Task Force on the Arizona Rules of Procedure for the Juvenile Court

Administrative Order 2019-74



Purpose: The Task Force shall review the Arizona Rules of Procedure for the Juvenile Court and identify possible changes that would conform these rules to modern usage, simplify the language, clarify and improve current procedures, reorganize the rules to enhance their usability, and account for recent Arizona and federal legislation, including the Family First Prevention Services Act. The Task Force shall also consider whether there should be separate sets of procedural rules for delinquency and dependency cases in the juvenile court.

Arizona Supreme Court

No. R-20-0044

- Repealed Current Rules and Adopted Restyled Arizona Rules of Procedure for the Juvenile Court, effective July 1, 2022, except to the extent that the court determines that applying a new rule would be infeasible or work an injustice, in which event the former rule applies.

- Chief Justice's Strategic Agenda





Restyling

- *Guidelines for Drafting and Editing Court Rules*, by Bryan A. Garner
- Attempts to be more user-friendly, more functional, easier to read, with more consistent formatting and terminology.
- Adds informative titles and headings.
- Avoids long sentences and paragraphs, ambiguous terminology, and legal jargon.
- Terminology: Parts, Sections, Subparts



New Rules

The new rules, like the current rules, are organized into the following 6 parts, although the titles of Parts II and III have been modified:

- Part I: General Provisions
- Part II: Delinquency
- Part III: Child Dependency and Guardianship, Termination of Parental Rights
- Part IV: Adoptions
- Part V: Emancipation
- Part VI: Appeals



New Rules

- ▶ The new juvenile rules are designated by three-digit numbers. The first of the three digits describes the part in which the rule appears; that is, the rules in the General Provisions of Part I are numbered 101 through 114, the Delinquency rules in Part II are numbered 201 through 227, and so on. Unlike the current rules, there are no numbers to the right of a decimal point.
- ▶ The current set includes 13 numbered rules that lack content and are shown as “reserved,” “repealed,” or “renumbered.” The new rules eliminate these placeholders. The complete set of new rules contains only about a dozen comments.

Part I. General Provisions

- ▶ New Part I contains 14 rules to replace the 6 rules currently in Part I. Some of the increase occurred because the Task Force moved provisions from other parts that had applicability throughout the rules to Part I. The remainder are new rules.
- ▶ Part I rules are rules of general application unless otherwise specified.

Rule 101. Scope and Construction

- ▶ Derived from Current Rule 1. Applicability; Definitions; Required Format of Stipulations; Motions and Orders.



Rule 102. Definitions

- ▶ Derived from Current Rules 1, 6 (Formality of Proceedings), and 47.2 (Minute Entries).
- ▶ Rule 102 contains more than two dozen defined words and terms.
- ▶ The comment provides references to other definitions within the rules and to statutory definitions from Title 8, Arizona Revised Statutes.

Rule 103. Priority of Proceedings; Conducting Proceedings; Applicability of Other Rules of Procedure

- ▶ Derived from Current Rules 6 and 7 (Priorities).
- ▶ Rule 103(d) provides that rules from other procedural sets, including the Civil and Criminal Rules, are “applicable only as specifically set forth or incorporated by reference in these rules.”

Rule 104. Applicability of the Arizona Rules of Evidence; Admissibility of Evidence and Reports

- ▶ Derived from Current Rules 32(E)(3), Rule 45(A),(B), (C), (D), and (E), 47.3(C), 51(C), 55(D), 56(D), 58(E), 59(D), 60(D), 63(D) and (E), 66(D) and (E), and 77(G).
- ▶ Rule 104 consolidates 17 evidentiary standards from the current Juvenile Rules into one rule, all but the standards set forth in restyled Rule 105(e)(4) (electronically filed or scanned documents considered originals under ARE 1002) and restyled Rule 336(c)(2), derived from Current Rule 53(c), (settlement conference statements not admissible except as provided by ARE 408).

Rule 104 (cont'd)

- ▶ The new rule provides that the Arizona Rules of Evidence apply in contested adjudication hearings in delinquency, dependency, Title 8 guardianship, and termination proceedings, except as otherwise provided by law or agreement. In all other proceedings, “non-privileged evidence tending to make a fact at issue more or less probable is admissible” unless the evidence lacks reliability, will cause unfair prejudice or confusion, or waste time. [Uniform Standard adopted by the Advisory Committee on the Rules of Evidence]
- ▶ Rule 104(c) (derived from Current Rule 45(E) and A.R.S. § 8-237, in which guardianship has been added by SB 1069) provides for admissibility of statements of a child regarding abuse or neglect if reliable.

Rule 104 (cont'd)

- ▶ Rule 104(d) governs the admissibility of reports.
- ▶ Under Rule 104(d)(2), in any dependency, Title 8 guardianship, or termination hearing, the court “must” review a child safety worker’s (i.e., a caseworker’s) report and “may” admit the report into evidence if the workers who prepared or approved the report are available for cross-examination and the report was timely disclosed.
- ▶ “Available for Cross-Examination” defined in Rule 104(d)(10)

Rule 104 (cont'd)

- ▶ Rule 104(d)(11) (added by the Court) provides that the admission of a report in one proceeding does not create a presumption that it is admissible in other proceedings.
- ▶ Importantly, the comment clarifies that there was no intent to change any ruling on evidence admissibility.

Rule 105. Form of Filed Documents

- ▶ Derived from Current Rule 1.
- ▶ The longest rule in Part I.
- ▶ Defines “filing” and “effective date of filing.”

Rule 105 (cont'd)

- ▶ Provides requirements for the case caption and document format.
- ▶ Provides requirements of electronically filed documents, signatures, and proposed orders.
- ▶ Includes new provision for unsworn declarations under penalty of perjury.

Rule 106. Serving Documents After Service of Case Initiating Documents

- ▶ Derived from Current Rules 15 (Motions), 46 (Motions), and 74 (Motions).
- ▶ Includes allowable methods of service after service of case-initiating documents.



Rule 107. Computing and Extending Time

- ▶ Derived from Current Rules 17 (Computation of Time), 43 (Computation of Time), and 72 (Computation of Time).
- ▶ Rule 107(a)(5) provides additional 5-calendar day “mailing rule” for service by “U.S. mail or other national courier service” under Rule 106(b)(2)(B).
(does not apply to clerk’s distribution of notices, forms, minute entries, or other court-generated documents).

Rule 108. Change of Judge

- ▶ Derived from Current Rule 2. Change of Judge or Commissioner.
- ▶ Only one preemptory change of judge for each party.



Rule 109. Combining Hearings

- ▶ Derived from Current Rule 14. Consolidation of Hearings.
- ▶ Court may combine hearings, including setting a delinquency and dependency hearing on the same date and time for crossover youth.



Rule 110. Virtual Proceedings; Declared Emergencies

- ▶ Derived from Current Juvenile Rules 13 (Attendance of Witnesses and Counsel by Telephone or Video Conference), 42 (Telephonic Testimony, Video Conferencing), 71 (Telephonic Testimony, Video Conferencing), and Family Law Rule 8 (Telephonic Appearances and Testimony).
- ▶ Includes new pandemic-inspired rules for declared emergencies.
- ▶ Under the provisions of the rule, evidentiary hearings would presumptively be conducted in person in the absence of an emergency; but during a declared emergency, evidentiary hearings would presumptively be conducted virtually. The rule provides exceptions for overcoming the presumption in either situation.

Rule 111. Indian Child Welfare Act ("ICWA")

- ▶ Derived from Current Rule 8. Applicability of the Indian Child Welfare Act.
- ▶ Rule 111 is dedicated to ICWA. ("ICWA" is a defined term in Rule 102). There are dozens of references throughout Part III and Part IV to specific ICWA sections of the United States Code and the Code of Federal Regulations. A separate table correlates these federal authorities with provisions in the new rules.
- ▶ "Reason to know that a child is an Indian Child."



Rule 112. Court-Appointed Special Advocate (“CASA”)

- ▶ Derived from Current Rule 3. Appointment of Special Advocate.
- ▶ Includes immunity provision for good-faith actions taken in connection with CASA responsibilities.



Rule 113. Intervention

- ▶ New Rule on Intervention: Of Right and Permissive
- ▶ Sets forth factors to be considered by court.
- ▶ Intervention may be limited in scope and duration.

Rule 114. Forms

- ▶ Derived from Current Appendix: Forms, and includes:
- ▶ Form 1: Notice to Parent; Dependency Action
- ▶ Form 2: Note to Parent: In-home Dependency
- ▶ Form 3: Notice to Parent: Guardianship Action
- ▶ Form 4: Notice to Parent: Termination Action
- ▶ Form 5a: Notice of Appeal: Delinquencies
- ▶ Form 5b: Notice of Appeal: General

Rule 114 (cont'd)

- ▶ New Form 6: Supplemental Designation of the Record
- ▶ New Form 7: Confidential Verified Parent Information Form
- ▶ New Form 8: Notice of Completed Adoption
- ▶ Forms may be found at:
<http://www.azcourts.gov/selfservicecenter/juvenile-law/juvenile-law-forms>

Questions

